

WRITER'S DIRECT E-MAIL
pvonziegesar@frolaw.com

FAUST OPPENHEIM LLP
ATTORNEYS AT LAW
488 MADISON AVENUE
NEW YORK, NEW YORK 10022
WEBSITE: www.frolaw.com

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>JUL 30 2008</u>

TELEPHONE (212) 751-7700
FACSIMILE (212) 371-8410

July 25, 2008

VIA EMAIL

Mr. Marlon Ovalles
Courtroom Deputy to the Hon. Paul J. Crotty
United States District Court, SDNY
500 Pearl Street, Chambers 735, Courtroom 20-C
New York, New York 10007

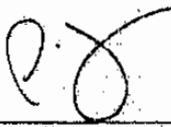
Re: Index No. 08cv03115, Petraco Oil Co. Ltd. v. Progetra SA
Request for Submission on Papers

Mr. Ovalles:

Counsel have conferred. All counsel are not available on any date until mid-September. Therefore, due to the timeliness of this matter, we write jointly with Jorn Holl, Esq. counsel to RZB, to respectfully request that the parties submit on their fully briefed papers without any oral argument. As you know there have been several issues raised in the papers, but they all rest on this Court's determination of whether this is a "maritime" matter, on which we respectfully suggest that oral argument is not necessary.

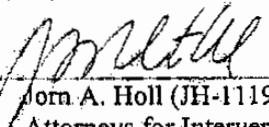
Very truly yours,

FAUST OPPENHEIM LLP

By: 

David I. Faust (DF-9739)
Petra von Ziegesar (PV-3568)
Attorneys for Defendant, Progetra SA

KAVANAGH MALONEY & OSNATO LLP

By: 

Jorn A. Holl (JH-1119)
Attorneys for Intervenor
Raiffeisen Zentralbank Österreich AG

Law Offices of
SIMON HARTER, Esq.
sharter@harterlaw.com

304 Park Avenue South – 11th Floor
New York, New York 10010
Tel: (212) 979-0250
Fax: (212) 979-0251

20 Nassau Street – Suite 10
Princeton, New Jersey 08542
Tel: (609) 688-8330
Fax: (609) 688-8331

July 25, 2008

Via Email

Honorable Judge Paul A. Crotty
United States District Court for the
Southern District of New York
500 Pearl Street - Room 735
New York, New York 10007

Re: Petraco Oil Co. Ltd. v. Progetra S.A.
United States District Court - Southern District of New York
Case No.: 08-cv-03115 (PAC)(THK)

Dear Judge Crotty:

We represent Plaintiff, Petraco Oil Co. Ltd. and write in response to the letter submitted today by Mr. Faust, counsel for Defendant, to Mr. Ovalles (copy attached) in which he requests on behalf of his client and Intervenor, RZB, that Defendant's motion to vacate the Rule B attachment and dismiss the entire proceeding, and RZB's motion to vacate the attachment, be decided on the papers and without oral argument.

Plaintiff respectfully requests that oral argument be allowed in this matter. Defendant raises six different legal grounds in support of its motion to vacate the Rule B attachment and dismiss the Plaintiff's complaint. Intervenor RZB moves to vacate the attachment on two separate grounds, and also asks the Court to make a determination of the proper disposition of the funds should the attachment be vacated. Not only have we, on behalf of Plaintiff, filed oppositions to both motions, but Defendant has filed its own opposition to Intervenor's motion.

While the primary issue relates to subject matter jurisdiction, the law on this subject is in a state of transition and the parties have cited seemingly contradictory authorities in support of their respective position. The details of the particular contract, and how they are properly interpreted under English law which governs the contract, is

July 25, 2008
Page 2

also a point of dispute. Under the circumstances, we respectfully submit that oral argument is appropriate.

Difficulties in scheduling oral argument do not, we submit, warrant a denial of oral argument, particularly given the somewhat unusual history of this case. Plaintiff filed this action on March 27, 2008. The funds in question were attached on April 15, 2008 and we sent a Local Rule B.2 notice by fax to Defendant the same date. It was not until May 12, 2008 that counsel for Progetra made any appearance in this matter. In that appearance, by letter, Mr. Faust requested that Your Honor schedule a pre-motion conference. However, as Your Honor noted by endorsement on May 27, 2008, the traditional method of seeking the requested relief is through Rule E(4)(f) of the Supplemental Rules for Certain Admiralty and Maritime Claims.

The pre-motion conference was held on April 9, 2008. At that conference, a briefing schedule was agreed upon that was only just completed on July 18, 2008.

In response to our letter to the Court dated July 20, 2008 regarding oral argument, Mr. Ovalles directed counsel to select three available dates and noted that Your Honor would not be in session the week of August 11th and that Court is generally not in session on Fridays. I am not available next week, the week of July 28th (as I indicated in my letter of July 20), and have subsequently learned that I must be in Houston for most of the following week, the week of August 4th. Your Honor is away the week of August 11th and counsel for Intervenor is unavailable the weeks of August 18th and 25th. I have advised counsel for Defendant and Intervenor of these developments and invited them to indicate when they are available thereafter, but their response is Mr. Faust's letter to Mr. Ovalles today.

Plaintiff has no interest in seeking to delay oral argument, but at the same time, we respectfully submit that difficulties in scheduling do not justify a denial of that argument, particularly given the circumstances that have lead us to this point. We therefore respectfully request that the parties be directed to submit the next three available dates to Mr. Ovalles according to his original instruction.

We thank the Court for its kind attention to this matter.

Very truly yours,



Simon Harter

July 25, 2008
Page 3

cc: Via Email

**Mr. Marlon Ovalles,
Courtroom Deputy**

**David I. Faust, Esq.
Faust Oppenheim LLP
488 Madison Avenue, 17th Floor
New York, New York 10022
Attorneys for Defendant, Progetra S.A.**

**Jorn A. Hall, Esq.
Kavanagh Maloney & Osnato LLP
415 Madison Avenue
New York, New York 10017
Attorneys for Intervenor,
Raiffeisen Zentralbank Osterreich A.G.**